

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

ROCHELLE DANIEL,

Plaintiff,

v.

Case 11-10034

WEST ASSET MANAGEMENT, INC.,

Defendant.

**ORDER DIRECTING DEFENDANT TO FILE AN EXPEDITED RESPONSE TO
PLAINTIFF'S "MOTION FOR LEAVE TO FILE AMENDED COMPLAINT," HOLDING
IN ABEYANCE DEFENDANT'S "MOTION FOR SUMMARY JUDGMENT," AND
ADJOURNING THE OCTOBER 12, 2011 MOTION HEARING**

Defendant West Asset Management, Inc. filed a "Motion for Summary Judgment" on August 3, 2011. Plaintiff filed a response on September 13, 2011, after the parties stipulated to an order granting Plaintiff additional time to file a response. Defendant replied on September 27, 2011. On October 4, 2011, while Defendant's motion for summary judgment was pending before the court, Plaintiff filed a "Motion for Leave to File an Amended Complaint." Plaintiff wishes to amend the complaint a fourth time in order to allege additional claims under the Fair Debt Collection Practices Act ("FDCPA") and to bolster her state-law defamation claim against Defendant. The court is inclined to bar Plaintiff's amendment of the defamation claim because it is preempted by the Fair Credit Reporting Act ("FCRA"), and therefore, any amendment to the claim would be futile. See *Barkho v. Homecomings Fin. LLC*, 657 F. Supp. 2d 857, 865 (E.D. Mich. 2009) (stating that a defamation claim that "appears to fit squarely within section 1681s-2" because "it stems directly from the allegedly inaccurate credit reporting by Defendant

is preempted by § 1681t(b)(1)(F)"). However, after reviewing Plaintiff's motion, the court concludes that an expedited response from Defendant directed at Plaintiff's request to amend the complaint to incorporate additional FDCPA claims is warranted. Additionally, the court will hold in abeyance Defendant's "Motion for Summary Judgment" pending adjudication of Plaintiff's motion, and adjourn the hearing scheduled for October 12, 2011 at 2:00 p.m. Accordingly,

IT IS ORDERED that Defendant is DIRECTED to file a response to Plaintiff's motion [Dkt. # 35] on or before **October 14, 2011**, addressing Plaintiff's request to amend the complaint to allege additional FDCPA claims.

IT IS FURTHER ORDERED that Defendant's "Motion for Summary Judgment" [Dkt. # 27] is HELD IN ABEYANCE and the October 12, 2011 hearing is ADJOURNED pending resolution of Plaintiff's motion for leave to amend.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: October 7, 2011

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, October 7, 2011, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522

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